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THE WHITE HOUSE

WASHINGTON

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Decision Memo on Personnel Incentive System Reforms

Originator: Ed Meese Date: March 23, 1983

Action Forcing Event: On Wednesday, January 12, 1983, the Cabinet Council on Management and Administration (CCMA) endorsed for transmittal to the President four proposals developed by the Office of Personnel Management. The proposals which were designed to create or enhance incentives in the Federal personnel system, and which involve changes in regulation or OPM guidance, are presented here for general policy approval. If approved, the proposed regulations or guidance will be published in the Federal Register for public review and comment. Concurrent with the transmittal of this memorandum, the regulations are proceeding through the OMB clearance process.

Analysis: At present, the Federal government's personnel system contains what might be termed "negative incentives." The system frequently makes creative and productive work very difficult. Annual "comparability" increases in pay are given to all, regardless of performance. Decisions to lay off employees rely too heavily on seniority, rather than on performance. Negative incentives encourage employees to work overtime, rather than regular hours. Labor negotiations often focus on trivial matters, while major initiatives are discouraged. The result is an incentive system badly in need of reform.

Proposals: The following OPM proposals were considered and endorsed by the CCMA to deal with the above problems. They were routed to the major departments for comment.

A. Reduction-in-Force Reform

The Problem: Separations in a government reduction-in-force are now based largely on seniority. As a result, many good performers are dismissed, while many poor ones are retained. In addition, the "last-hired, first-fired" method produces an inordinately adverse effect on women and minorities. The present "bump and retreat" rules also produce needless disruption by affecting 3 to 5 employees for every one separated, and results in absurd situations where employees making $50,000 a year are sorting mail.

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The Solution: This proposed regulation would retain the four factors now considered in determining retention order in a RIF: tenure (career/career-conditional), veterans preference, seniority and performance. It would reverse the order in which the last two factors are considered. Employees would be grouped according to performance appraisals, and then within those categories according to seniority. This would more likely ensure that the best workers would be kept in a RIF, while not disregarding seniority as a factor.

Only Treasury and State dissent. They suggest that the subjective nature of performance appraisal makes this factor less effective and more open to litigation than seniority.

Other features of this proposal would:

1) increase flexibility for setting competitive areas (allowing agencies to minimize disruption for organizational units which are not the target of a RIF);

2) limit "bump" and "retreat" (eliminating procedures under which the government ends up with $50,000 a year clerks);

3) exempt reclassification and reassignments from RIF procedures; and

4) increase the notice period for people subject to RIF from 5 to 10 days.

All agencies that commented concurred with these features, with Justice suggesting slightly more restrictive procedures.

Decision:

_____ Approve _____ Approve as amended _____ Reject _____ No Action

B. A Performance-Based Incentive System (PBIS)

The Problem: Longevity, not performance, is the basis upon which the vast majority of Federal employees now advance in pay. As a result, poor performers receive pay raises they may not deserve, while outstanding performers receive insufficient monetary reward for the contributions they make.

The Solution: This regulation requires that decisions to increase employee pay be based on the performance appraisal required under the Civil Service Reform Act. It will:

1) standardize performance appraisal systems to establish clear linkage between performance and pay;

2) make within-grade increases for General Schedule employees dependent on performance;

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3) standardize the merit pay system to be compatible with the new General Schedule system, and guarantee full comparability to managers rated "fully successful"; and

4) integrate the quality step increase program, the incentive awards program, and within-grade increases to form an incentive pay pool from which better performers will receive higher pay increases.

This system will link pay to performance for the bulk of Federal white collar workers for the first time, and give executive and managers an invaluable tool in encouraging the best possible performance from government employees.

All who commented concurred, except Treasury and State. Treasury feels that merit pay has not worked, performance appraisal systems are weak, OPM control is counter to the Civil Service Reform Act, and that new legislation is likely required. State welcomes guidance in this area, but feels that the system would not work for all employee grades, and that there would not be sufficient funds for significant pay raises.

Decision:

_____ Approve _____ Approve as amended _____ Reject _____ No Action

C. Overtime Pay Equity

The Problem: Under the Fair Labor Standards Act (FLSA), Federal employees must be paid overtime at an amount which is the greater of either the method of calculation used by the Department of Labor, or that which OPM uses under Title 5 of the U.S. Code. Originally, OPM tied general schedule exemptions to the DOL levels, but over the years, Federal pay for these grades has grown while DOL rates have not. The result is that the Federal government pays more people more overtime benefits than the private sector.

The Solution: The proposed regulation would make Federal government practices closer to, but still more generous than, private sector practices, and would:

1) set a new linking procedure;

2) reduce the so-called "upset" salary for overtime exclusion from $429 to $318 per week;

3) reduce the "minimum" for automatic overtime coverage from $318 to $257; and

4) allow exceptions for air traffic controllers, law enforcement officers and firefighters.

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Most of the employees who would be affected by this change work for the Department of Defense, and in fact this proposal was developed in conjunction with the Navy.

All agency comments concurred in this.

Decision:

_____ Approve _____ Approve as amended _____ Reject _____ No Action

D. Management Rights and the Scope of Bargaining/Consultation

The Problem: "Management rights" which clearly must be reserved to the decision-making authority of agency heads and executives are defined only broadly in the law. A second group of management concerns are placed, by law, in a category subject to collective bargaining at agency option. The result of these vague, broad listings in the statute is that labor unions constantly test how far they can stretch negotiability in Federal sector bargaining.

The Solution: This proposed guideline seeks to ensure the protection of essential management prerogatives by clearly specifying what is negotiable and what is not. It would be issued in the form of management guidance, rather than regulation, but would serve to give agency negotiators a "hook" on which to hang their efforts to prevent encroachment in these areas. The proposal involves listing areas where we consider consultation with public employee unions appropriate and desirable, i.e., occupational safety and health, "quality circles," and the like. This will help reorient Federal sector collective bargaining toward positive, vital areas.

All agencies, except State, concurred in the need for this clarification. State feels that OPM is diminishing its credibility with this proposal.

Decision:

_____ Approve _____ Approve as amended _____ Reject _____ No Action

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